

OFFICE OF THE DIRECTOR

DEPARTMENT OF MOTOR VEHICLES

P.O. BOX 932328

SACRAMENTO, CA 94232-3280

**TITLE 13: DEPARTMENT OF MOTOR VEHICLES****NOTICE IS HEREBY GIVEN**

The Department of Motor Vehicles (department) proposes to amend Sections 25.06, 25.07, 25.08, 25.09, 25.10, 25.14, 25.15, 25.16, 25.17, 25.18, 25.19, 25.20, 25.21 and 25.22 in Chapter 1, Division 1, Article 2.1 of Title 13, California Code of Regulations, relating to the Employer Testing Program.

PUBLIC HEARING

A public hearing regarding this proposed regulatory action is not scheduled. However, a public hearing will be held if any interested person or his or her duly authorized representative requests a public hearing to be held relevant to the proposed action by submitting a written request to the contact person identified in this notice no later than 5:00 P.M., fifteen (15) days prior to the close of the written comment period.

DEADLINE FOR WRITTEN COMMENTS

Any interested person or his or her duly authorized representative may submit written comments relevant to the proposed regulations to the contact person identified in this notice. All written comments must be received at the department no later than 5:00 P.M., **November 26, 2007**, the final day of the written comment period, in order for them to be considered by the department before it adopts the proposed regulation.

AUTHORITY AND REFERENCE

The department proposes to adopt this regulation under the authority granted by Sections 1651 of the Vehicle Code in order to implement, interpret or make specific Sections 12804.9, 15250, and 15250.6 of the Vehicle Code and Sections 11340.5 and 11425.50(e) of the Government Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The department is authorized in Part 383 of Title 49 of the Code of Federal Regulations and by Vehicle Code Section 15250(c) to use third-party testers to conduct the commercial behind-the-wheel driving tests under specified conditions. Third-party testers, or Examiners, are required to conduct drive tests at least one time in a 90 day period. A drive test consists of a pre-trip inspection, skills test and road test, all of which are to be documented by the examiner on forms specified by the department.

These proposed regulations will allow an examiner to conduct a drive test with an existing commercially licensed driver employed by a company to meet the 90 day requirement. These regulations will require the test to consist of a pre-trip inspection, skills test and road test on a department approved route and utilizing a department score sheet and will require supplemental documentation to be completed indicating the results of the test.

These amendments will also update revisions made to several departmental forms relating to the Employer Testing Program.

DOCUMENTS INCORPORATED BY REFERENCE

The following forms are incorporated by reference in Sections 25.06, 25.07, 25.08, 25.09, 25.10, 25.14, 25.15, 25.16, 25.17, 25.18, 25.19, 25.20, 25.21 and 25.22. These forms are not published in the California Code of Regulations because it would be impractical and cumbersome to publish these documents in the California Code of Regulations.

- Certificate of Driving Skill (DL 170 ETP, Rev. 9/2006)
- Firefighter's Certificate of Driving Skill (DL 170F ETP, Rev. 9/2006)
- Application for Employer Number (DL 520 ETP, Rev. 9/2006)
- Employer Testing Program Agreement (DL 520B ETP, Rev. 3/2007)
- Voluntary Cancellation Request of Employer Number (DL 520C ETP, Rev. 8/03)
- Commercial Driving Performance Evaluation Route and Directions (DL 814 ETP, Rev. 2/2003)
- Commercial DPE Maneuver Checklist (DL 807 ETP, Rev. 9/2006)
- Request for Reactivation employer Number (DL 817 ETP, Rev. 8/2003)
- Employer Testing Program Examiner Application (DL 811 ETP, Rev. 9/2006)
- ETP CDL Pre-Trip Inspection Evaluation Score Sheet (DL 65 ETP Part I, Rev. 4/2003)
- ETP CDL Driving Performance Evaluation Score Sheet (DL 65 ETP Part II, Rev. 4/2003)
- Driver Testing Log (DL 819 ETP, New 1/2005)
- Medical Examination Report (DL 51, Rev. 7/2006)
- Health Questionnaire (DL 546, Rev. 11/2004)

These forms are available to the public through the department's internet website and are available upon request directly from the department and are reasonably available to the affected public from a commonly known or specified source.

FISCAL IMPACT STATEMENT

- Cost or Savings To Any State Agency: None.
- Other Non-Discretionary Cost or Savings to Local Agencies: None.
- Costs or Savings in Federal Funding to the State: None.
- Cost Impact on Representative Private Persons or Businesses: The department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Effect on Housing Costs: None.

DETERMINATIONS

The department has made the following initial determinations concerning the proposed regulatory action:

- The proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This proposed action will only allow employers to test existing license holders in order to meet their 90-day testing requirement.
- The adoption of this regulation is not expected to create or eliminate jobs or businesses in the state of California or reduce or expand businesses currently doing business in the state of California.
- The proposed regulatory action will not impose a mandate on local agencies or school districts, or a mandate that requires reimbursement pursuant to part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- The proposed regulatory action will affect small businesses. Third-party testers will be able to meet their 90 day testing limit by being allowed to test existing commercially licensed drivers from their company.

PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

A pre-notice workshop, pursuant to Government Code section 11346.45, is not required because the issues addressed in the proposal are not so complex or large in number that they cannot easily be reviewed during the comment period.

ALTERNATIVES CONSIDERED

The department must determine that no reasonable alternative considered by the department or that has otherwise been identified and brought to the attention of the department would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action.

CONTACT PERSON

Inquiries relevant to the proposed action and questions on the substance of the proposed regulations should be directed to the department representative, Randi Calkins, Department of Motor Vehicles, P.O. Box 932382, Mail Station E-244, Sacramento, California 94232-3820; telephone number (916) 657-8898, or rcalkins@dmv.ca.gov. In the absence of the department representative, inquiries may be directed to Christie Patrick, at (916) 657-5567 or cpatrick@dmv.ca.gov. The fax number for the Regulations Branch is (916) 657-1204.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The department has prepared an initial statement of reasons for the proposed action, and has available all the information upon which the proposal is based. The contact person identified in this notice shall make available to the public upon request the express terms of the proposed action using underline or italics to indicate additions to, and strikeouts to indicate deletions from the California Code of Regulations. The contact person identified in this notice shall also make available to the public, upon request, the final statement of reasons once it has been prepared and submitted to the Office of Administrative Law, and the location of public records, including reports, documentation and other materials related to the proposed action. In addition, the above-cited materials (Initial Statement of Reasons, Express Terms, and Form DL 520B ETP, Rev. 6/2007) may be accessed at www.dmv.ca.gov. Other Services, Legal Affairs Division, Regulatory Actions Web Page.

AVAILABILITY OF MODIFIED TEXT

Following the written comment period and the hearing, if one is held, the department may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the full, modified text with changes clearly indicated would be made available to the public for at least 15 days prior to the date on which the department adopts the resulting regulations. Requests for copies of any modified regulations should be addressed to the department contact person identified in this notice. The department will accept written comments on the modified regulations for 15 days after the date on which they are first made available to the public.